

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION

MDL No. 1456

Civil Action: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Judge Patti B. Saris

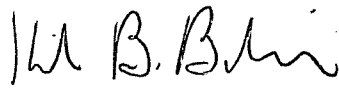
**KLINE & SPECTER, P.C.'S RESPONSE TO LEAD COUNSEL'S MOTION FOR
REFERRAL OF FEE DISPUTE TO BINDING ARBITRATION**

Kline & Specter, P.C. ("Kline & Specter") agrees that its fee dispute with lead counsel over Kline & Specter's state time and expenses is subject to an agreement which provides that the dispute must now be submitted to binding arbitration. *See* agreement attached hereto as Exhibit "A." However, Mr. Williams is not a party to that agreement. Only lead counsel and Kline & Specter are parties to that agreement. *See id.* ("It is hereby agreed between the MDL co-lead counsel and Kline & Specter as follows:..."). Thus, arbitration may only be ordered between Kline & Specter and lead counsel.

Kline & Specter does not oppose the selection of Judge Gertner, subject to the judgment of this Court. We leave to the sound discretion of this Court the decision whom to select. Kline & Specter wishes to note for the Court the following facts, which may or may not be relevant to the Court's selection: (1) the mediation was held before Eric Green; (2) Mr. Green noted at the end of the mediation that he should not serve as arbitrator of this dispute; (3) Mr. Green advised that he has an affiliation with Judge Gertner; (4) Mr. Green recommended that the parties select Judge Gertner as the arbitrator; (5) lead counsel thereafter asked Kline & Specter to agree to have Mr. Green serve as the arbitrator; (6) Kline & Specter declined to agree to Mr.

Green and proposed Elizabeth Mulvey as the arbitrator; (7) lead counsel's proposal to the Court of Judge Gertner was not previously proposed to Kline & Specter. *See* Declaration of Kila Baldwin, attached as Exhibit "B."

Respectfully,

A handwritten signature in black ink, appearing to read 'Shanin Specter', written over a horizontal line.

SHANIN SPECTER, ESQUIRE
KILA B. BALDWIN, ESQUIRE
KLINE & SPECTER, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102
(215) 772 1000

CERTIFICATE OF SERVICE

I hereby certify that on this date, March 28, 2012, Kline & Specter, P.C.'s Response to Lead Counsel's Motion for Referral of Fee Dispute to Binding Arbitration was duly filed with the Court through ECF and served on all counsel of record, via Lexis/Nexis File & Serve.

/s/ Barbara Carberry